

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
)

Petition for Rulemaking and Request for Initiation)
of §403 Proceeding Into Character of WorldCom, Inc.)
and Other Commission Licensees)

RM-10613

To: Chief, Wireline Competition Bureau
Chief, Wireless Telecommunications Bureau
Chief, International Bureau

**Supplemental Comments of The Office of Communication of the United Church of Christ,
Inc.**

**In Support of Initiation of Proceeding
Into Character of WorldCom, Inc. and Other Licensees**

The Office of Communication of the United Church of Christ, Inc. ("UCC"), by counsel, hereby submits its Supplemental Comments supporting its Petition for Rulemaking and Request for Initiation of §403 Proceeding Into Character of WorldCom, Inc. and Other Commission Licensees (the "Petition") pursuant to which UCC seeks the adoption of a Notice of Proposed Rulemaking and the initiation of a Section 403 inquiry regarding the establishment of new standards of conduct to be required of all telecommunications providers receiving authorizations to operate from the Commission.¹ New developments warrant the submission of this Supplement. The following is shown in support thereof:

¹ A number of parties submitted comments in response to the Commission's request for comments on the Petition. See *Public Notice*, Report No. 2585, released December 5, 2002 and *In re Request for Initiation of Proceeding Into Character of WorldCom, Inc. and Other Commission Licensees; Motion for Extension of Time, Order*, DA 02-3502, released December 19, 2002. To the extent necessary, UCC seeks leave to submit these Supplemental Comments. UCC submits that the information submitted herewith is new information that has only recently been made available to the public and is of significant relevance to the outcome of this proceeding such that the public interest will be served by its acceptance and consideration.

Two reports of import to this proceeding were recently published of which the Commission ought to be aware. On June 9, 2003, the Special Investigative Committee of the Board of Directors of WorldCom, Inc. released its Report of Investigation (“SIC Report”). That same day, Bankruptcy Examiner Dick Thornburgh issued his Second Interim Report (“Thornburgh Report”). Copies of these reports are submitted herewith.

These reports provide significant information regarding the extent of the fraud and the depth of the misrepresentations perpetrated and made by WorldCom. More specifically, both reports detail how the fraud is, in large part, a byproduct of the almost complete lack of corporate governance at WorldCom.

For example, the SIC Report concludes that

Numerous individuals – most of them in financial and accounting departments, at many levels of the company and in different locations around the world – became aware in varying degrees of senior management’s misconduct.²

Yet no one blew the whistle. The SIC Report also concludes that the board “played far too small a role in the life, direction and culture of the Company” and that it “did not function in a way that made it likely that they would notice red flags.”³ The SIC Report placed the blame on the “culture emanating from corporate headquarters that emphasized making the numbers above all else; fostered blind trust in senior officers even in the face of evidence that they were acting improperly; discouraged dissent; and left few, if any, outlets through which employees believed they could safely voice their objections.”⁴

² SIC Report at p. 18.

³ SIC Report at pp. 29, 30.

⁴ SIC Report at p. 18.

The Thornburgh Report “identified a growing number of troubling and problematic issues” that “closely resemble [the accounting irregularities] in their egregiousness, arrogance and brazenness” “reflect[ing] a virtual complete breakdown of proper corporate governance principles, making WorldCom the poster child for corporate governance failures.”⁵

The Thornburgh report concludes that while the lack of internal controls “and the lack of transparency between senior management and the Board of Directors does not directly translate to the massive accounting fraud” it concedes that these “failings fostered an environment and culture that permitted the fraud to grow dramatically and ultimately propelled the Company into bankruptcy” and that the culture and lack of controls constitute a “breeding ground” for misdeeds.⁶

In short, the “gatekeepers” left the doors wide open while those responsible for corporate governance turned a blind eye in a culture that promoted silence in the face of wrongdoing and neglect.

These reports fully support UCC’s contention that the Commission should adopt rules establishing new guidelines for corporate behavior and that WorldCom is a prime example as to why such rules are necessary. They demonstrate the increased need for Commission oversight of business practices in this post-1996 “rapidly changing, and increasingly competitive” marketplace.⁷

⁵ Thornburgh Report at pp. 2-3.

⁶ Thornburgh Report at p. 217.

⁷ *Section 257 Report to Congress (Identifying and Eliminating Market Entry Barriers For Entrepreneurs and Other Small Businesses)*, 15 FCC Rcd 15376, 15440 (2000). See also, *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers*, 15 FCC Rcd 15996, 16003 (2000) (reserving the right to re-evaluate its rules on slamming “if we detect an inordinate increase in slamming after [the E-Sign Act and Letter of Agency rules] take effect”).

While the SIC Report concludes that “the Company has taken substantial steps to put in place a governance process designed to cure the principal failing that gave rise to the fraud”⁸, those steps should not deter the Commission from the exercise of its obligations to the public interest. For example, many broadcasters and cable operators subject to the Commission’s oversight are (and without Commission action would be) equal opportunity employers, yet that has not stopped the Commission from adopting detailed rules governing equal employment opportunity.⁹ Likewise, merely because WorldCom may ultimately adopt some code of corporate governance should not prevent the Commission from adopting its own code in the public interest.

The reports fully support UCC’s contention that the Commission’s existing standards are deficient in that they only provide the Commission with an opportunity to evaluate the character qualification of its regulatees subsequent to the misconduct, and that they are not preemptive in nature. The clear implications of the reports are that concern over FCC review of WorldCom’s conduct was not even on the horizon.

As discussed in the Petition, WorldCom supplied false or fraudulent statements to the Commission containing information essential to the formulation of policies concerning telecommunications carriers and infrastructure. UCC detailed there the extent to which other government agencies and the private sector rely on the Commission’s reports that are based upon a compilation and analysis of industry supplied information. The supply of inaccurate or falsified data undermines the FCC’s ability to rely on company-supplied data to establish and implement its regulatory objectives and can serve to mislead marketplace competitors.

⁸ SIC Report at p. 339.

⁹ *Second Report and Order and Third Notice of Proposed Rule Making in MM Docket No. 98-204*, 17 FCC Rcd 24018 (2002). While the Commission’s responsibilities in this area are codified, the Commission occupied the area prior to such codification.

In order to fully perform its functions in accordance with its statutory mandate, the Commission must be able to rely on the information provided to it. But the only way it can do that is with the knowledge that the information provider is being, and will continue to be, truthful with the Commission. Only through the establishment of clear and explicit standards – and clear and explicit consequences for violations thereof – can the Commission acquire such knowledge.

The fact that the Bankruptcy Examiner and the Special Investigative Committee have conducted their reviews of WorldCom's conduct should not deter the Commission from conducting its own investigation and reaching its own conclusions. The Commission cannot simply rely on the work of others, but must conduct its own investigation in order to determine the specific measures that would be right for the needs identified. **Only the Commission is qualified to establish policy for the telecommunications infrastructure.**

Federal District Court Judge Jed S. Rakoff, who is overseeing the Securities and Exchange Commission's ("SEC") action against WorldCom recently indicated his agreement. His finding that the issues raised in UCC's recently submitted comments on the proposed partial settlement between the SEC and WorldCom (raised many of the same issues raised in its original Petition in this matter) were "interesting and informative" but not relevant to matters before the court, suggests that the Commission is the body with the jurisdiction and the qualifications to consider the policy and qualifications issues raised by UCC's Petition.¹⁰

In order to comprehensively address this matter, the Commission must be clear in its authority with a record fully supportive of its actions. To be in that position, it should use the tools Congress gave to it for that very purpose; it must conduct a full investigation targeted at

¹⁰ See Transcript of Hearing, *Securities and Exchange Commission v. WorldCom, Inc.*, 02 Civ. 4963 (JSR), June 11, 2003 at p. 70.

matters relevant to its regulatory oversight of the telecommunications marketplace and institute a full notice and comment proceeding in compliance with the Administrative Procedure Act.¹¹

UCC has already well detailed the Commission's clear authority to act in this matter. The reports only serve to buttress UCC's contentions that the Commission must exercise its authority.

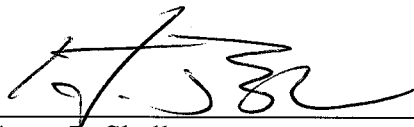
Wherefore, the premises considered, Office of Communication of the United Church of Christ, Inc. respectfully requests that the Commission adopt and release a Notice of Proposed Rulemaking seeking comment on the establishment of new standards of conduct applicable to all telecommunications providers receiving authorizations from the Commission and that it initiate a Section 403 investigation to enable it to develop a more complete record.

Respectfully submitted,

**OFFICE OF COMMUNICATION OF THE
UNITED CHURCH OF CHRIST, INC.**

July 17, 2003

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¹¹ 5 U.S.C. § 551, *et. seq.*

Certificate of Service

I, Dina Etemadi, a secretary with the law firm of Womble Carlyle Sandridge & Rice, PLLC, do hereby certify that a true and correct copy of the foregoing Supplemental Comments was served by U.S. mail, first class, postage-prepaid on the 17th day of July, 2003, on the following individuals:

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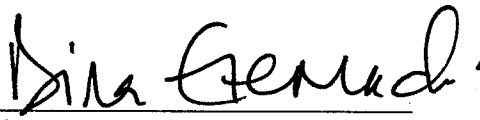
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